

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

FILED
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U.S. DISTRICT COURT
DISTRICT OF MASS.

MARK M. THORNTON,
Plaintiff,

v.

NORTHEAST BUILDERS TRANSPORT,
INC. and BARRY N. EHRSTEIN,
Defendants.

C.A. NO.: 03-CV-12521-RGS

**DEFENDANTS NORTHEAST BUILDERS TRANSPORT, INC., AND BARRY N.
EHRSTEIN'S ANSWER AND JURY DEMAND**

Now comes Defendants Northeast Builders Transport, Inc. ("Northeast") and Barry N. Ehrstein ("Ehrstein") in the above-entitled matter, and answers the plaintiff's complaint as follows:

PARTIES

1. Neither admitted nor denied.
2. Admitted.
3. Admitted.

JURISDICTION AND VENUE

4. Neither admitted nor denied.
5. Neither admitted nor denied.

FACTS

6. Neither admitted nor denied.
7. Admitted Ehrstein was operating a vehicle owned by Northeast. Otherwise denied.
8. Denied.
9. Admitted Ehrstein was an employee of Northeast. Otherwise neither admitted nor denied.

10. Admitted Ehrstein operated a vehicle owned by Northeast as an employee.
Otherwise neither admitted nor denied.
11. Admitted.
12. Defendants admit there was a traffic control system at the intersection of the
Fellsway and Mystic Avenue; otherwise denied.
13. Denied.
14. Denied.
15. Denied.
16. Denied.

COUNT I

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17. Defendant Northeast reasserts and realleges all answers in paragraph 1 through 16
above, and incorporate each herein by reference.
18. Denied.
19. Admitted that Ehrstein was an employee of Northeast and operating a vehicle owned
by Northeast. Otherwise neither admitted nor denied.
20. Admitted.
21. Denied.

Wherefore, defendants deny that the plaintiff is entitled to any relief.

COUNT II

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22. Defendant Ehrstein reasserts and realleges all answers in paragraph 1 through 21
above, and incorporate each herein by reference.
23. Denied.

Wherefore, defendants deny that the plaintiff is entitled to any relief.

FIRST DEFENSE

Process and service of process are insufficient.

SECOND DEFENSE

The plaintiff's complaint is barred because it fails to state a cause of action for which relief can be granted.

THIRD DEFENSE

The plaintiff was contributorily negligent sufficient to bar recovery; should plaintiff be allowed to recover, which defendants oppose, said recovery shall be reduced by the percentage of negligence attributable to the plaintiff.

FOURTH DEFENSE

The plaintiff's negligence and carelessness exceeded that of the defendants, wherefore, the plaintiff is precluded from recovering any damages.

FIFTH DEFENSE

If the plaintiff was injured or damaged as alleged, which is denied, it was not as a result of the acts or omissions of any of the defendants or anyone for whom the defendants are legally liable or responsible.

SIXTH DEFENSE

Any conduct of the defendant was not the proximate cause of the plaintiff's alleged injuries and any damages were the proximate result of intervening and/or superceding actions and/or omissions for which the defendant is not legally liable or responsible.

SEVENTH DEFENSE

Plaintiff is not entitled to maintain this action due to the provisions of M.G.L. c. 231 §6(D).

NINTH DEFENSE

The complaint is barred because the plaintiff's medical expenses do not meet the statutory requirements of M.G.L. c. 90 §§ 34(a), 34(m).

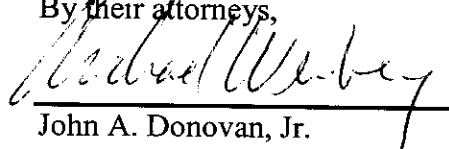
TENTH DEFENSE

The negligent acts or omissions alleged in plaintiff's complaint were committed, if at all, by a person for whose conduct the defendant is not responsible.

JURY DEMAND

The defendants hereby demand a trial by jury on all claims.

Northeast Builders Transport,
Inc. and Barry N. Ehrstein,
By their attorneys,



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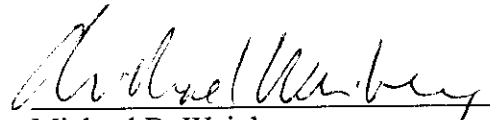
Dated: January 12, 2004

CERTIFICATE OF SERVICE

I, Michael B. Weinberg, hereby certify that I have this day served a copy of the foregoing documents, by mailing a copy, first class mail, postage prepaid to:

William H. Barry III, Esq.
Barry Law Office
255 Main Street
Nashua, New Hampshire 03060

Dated: January 12, 2004


Michael B. Weinberg

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